



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/590,935	12/20/2006	Sylvia Monsheimer	295470US0PCT	2738
22850	7590	02/17/2010	EXAMINER	
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P. 1940 DUKE STREET ALEXANDRIA, VA 22314			TENTONI, LEO B	
			ART UNIT	PAPER NUMBER
			1791	
			NOTIFICATION DATE	DELIVERY MODE
			02/17/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com
oblonpat@oblon.com
jgardner@oblon.com

Office Action Summary	Application No.	Applicant(s)	
	10/590,935	MONSHEIMER ET AL.	
	Examiner	Art Unit	
	Leo B. Tentoni	1791	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 07 December 2009.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 42-77 is/are pending in the application.
 4a) Of the above claim(s) 61-75 is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 42-60,76 and 77 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date <u>11282006;12112006;05102007;07112008;11092008;06122009</u> .	6) <input type="checkbox"/> Other: _____ .

Art Unit: 1791

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of Group I, claims 42-60, 76 and 77 in the reply filed on 07 December 2009 is acknowledged. The traversal is on the ground(s) that the Office has not considered the relationship of the inventions of Groups I and II with respect to 37 CFR §1.475(b)(2) and MPEP §806.03. This is not found persuasive because since the claims fail to define a contribution over the prior art, they fail to constitute a special technical feature and hence, there is lack of unity between the claims of Group I and the claims of Group II.

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 61-75 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 07 December 2009.

Priority

3. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a) - (d), which papers have been placed of record in the file.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

Art Unit: 1791

A person shall be entitled to a patent unless -

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 42-60, 76 and 77 are rejected under 35 U.S.C. 102(a) as being anticipated by Monsheimer et al (U.S. Patent Application Publication 2004/0137228 A1).

Monsheimer et al (see the entire document, in particular, the abstract; paragraphs [0013] - [0019], [0026] - [0031], [0045], [0049] - [0051], [0054]; Table 1) teaches a process of making moldings by a layer-by-layer process including selectively melting regions of a respective pulverulent layer via unfocused introduction of electromagnetic energy, using a polymer powder, wherein the polymer powder is a thermoplastic random copolymer (e.g., copolyamide, copolyester). The recited ISO 1133 MFR value range is inherent in the process of Monsheimer et al principally because Monsheimer et al teaches the use of VESTAMELT® polymers, which are also described as being used by the instant specification in the instant process.

6. Claims 42-60, 76 and 77 are rejected under 35 U.S.C. 102(e) as being anticipated by Monsheimer et al (U.S. Patent Application Publication 2004/0137228 A1). Monsheimer et al (see the entire document, in particular, the abstract; paragraphs [0013] -

Art Unit: 1791

[0019], [0026] - [0031], [0045], [0049] - [0051], [0054]; Table 1) teaches a process of making moldings by a layer-by-layer process including selectively melting regions of a respective pulverulent layer via unfocused introduction of electromagnetic energy, using a polymer powder, wherein the polymer powder is a thermoplastic random copolymer (e.g., copolyamide, copolyester). The recited ISO 1133 MFR value range is inherent in the process of Monsheimer et al principally because Monsheimer et al teaches the use of VESTAMELT® polymers, which are also described as being used by the instant specification in the instant process.

The applied reference has a common inventor with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Art Unit: 1791

7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. Claims 42-60, 76 and 77 are rejected under 35 U.S.C. 103(a) as being obvious over Monsheimer et al (U.S. Patent Application Publication 2004/0137228 A1).

The applied reference has a common inventor with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art only under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 103(a) might be overcome by: (1) a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not an invention "by another"; (2) a showing of a date of invention for the claimed subject matter of the application which corresponds to subject matter disclosed but not claimed in the reference, prior to the effective U.S. filing date of the reference under 37 CFR 1.131; or (3) an oath or declaration under 37 CFR 1.130 stating that the application and

Art Unit: 1791

reference are currently owned by the same party and that the inventor named in the application is the prior inventor under 35 U.S.C. 104, together with a terminal disclaimer in accordance with 37 CFR 1.321(c). This rejection might also be overcome by showing that the reference is disqualified under 35 U.S.C. 103(c) as prior art in a rejection under 35 U.S.C. 103(a). See MPEP § 706.02(1)(1) and § 706.02(1)(2). Monsheimer et al (see the entire document, in particular, the abstract; paragraphs [0013] - [0019], [0026] - [0031], [0045], [0049] - [0051], [0054]; Table 1) teaches a process of making moldings by a layer-by-layer process including selectively melting regions of a respective pulverulent layer via unfocused introduction of electromagnetic energy, using a polymer powder, wherein the polymer powder is a thermoplastic random copolymer (e.g., copolyamide, copolyester). The recited ISO 1133 MFR value range would have been obvious to one of ordinary skill in the art at the time the invention was made in the process of Monsheimer et al principally because Monsheimer et al teaches the use of VESTAMELT® polymers, which are also described as being used by the instant specification in the instant process.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leo B. Tentoni whose telephone number is (571) 272-1209. The examiner can normally be reached on Monday - Friday (6:30 A.M. - 3:00 P.M.).

Art Unit: 1791

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina A. Johnson can be reached on (571) 272-1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Leo B. Tentoni/
Primary Examiner, Art Unit 1791